



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, November 9, 2011
9:00 a.m.
8th Floor Conference Room, 40 Fountain Street

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m. Wednesday, November 9, 2011, on the 8th Floor Conference Room, 40 Fountain Street, Providence, RI.

I. Roll Call of Members

The following members were present at roll call: Deputy Treasurer Mark Dingley, Esq. for General Treasurer Gina M. Raimondo, Vice Chair William B. Finelli, Gary R. Alger, Daniel L. Beardsley; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata and Jean Rondeau.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director; Attorney Michael P. Robinson, Board Counsel.

Recognizing a quorum, Vice-Chairman Finelli called the meeting to order.

Linda C. Riendeau arrived at 9:08 a.m. and Richard A. Licht arrived at 9:17 a.m.

II. Approval of Minutes

On a motion by Jean Rondeau and seconded by M. Carl Heintzelman, it was unanimously

VOTED: To approve the draft minutes of the October 12, 2011 meeting of the Employees' Retirement System of Rhode Island Board.

On a motion by Thomas A. Mullaney and seconded by Roger P. Boudreau, it was unanimously

VOTED: To approve the draft Executive Session minutes of the October 12, 2011 meeting of the Employees' Retirement System of Rhode Island Board.

III. Chairperson's Report

Deputy Treasurer Mark Dingley Esq. reported that ERSRI did not have final numbers for investment related returns. Attorney Dingley said the first quarter results were not good with negative returns as markets were very difficult. He said October was a positive month.

IV. Director's Report

Director Karpinski noted that the Board members were in possession of the Pension Application Processing Report; a memorandum to the Board entitled Retirement Board

Election, copies of Rhode Island General Laws (RIGL) §45-21-8 and §45-21-19 and the Disability Subcommittee Report.

The Director apprised the Board that the Election Subcommittee met this morning to certify the declared candidates' eligibility (memo provided). He said that Attorney Gary R. Alger, Chair of the Committee, would update the Board during the committee reports and there will be a lottery for the ballot order.

Director Karpinski told the Board that ERSRI notified the candidates by mail that they reached their eligibility. He said one candidate did not return the required signatures and consequently that person will be disqualified from the election. The Director said the next step is to notify the respective employers (school districts and retirees) that there is an election. ERSRI will also produce a newsletter notifying members and retirees who the candidates are. Director Karpinski said the ballots will be mailed at the end of December. Throughout January, the collection of ballots will take place closing on January 31, 2012. The Board of Elections will then count the ballots; Director Karpinski said he will notify candidates that they may be present and watch the counting of the ballots. A certified letter will be sent from the Board of Elections certifying the results which will be reported to the Board at the February 2012 Retirement Board meeting; the new candidates will be sworn in at the March 2012 Retirement Board meeting.

Director Karpinski then updated the Board on the procurement of fiduciary liability insurance. He said he and Attorney Robinson met with Mr. Kevin Carvalho, the State Risk Manager, and with the State's insurance and risk management consultants. The Director provided Mr. Carvalho with information received from the prior bid as well as information on ERSRI. Director Karpinski also told the Board that he obtained information from a colleague at the Ohio PERS. He observed that larger systems tend to have tiers of insurance that build upon the primary policy which are ultimately based on the level of insurance needed. However, the prerequisite is having one primary carrier. Mr. Carvalho confirmed such a strategy, which he has obtained in other risk management matters. He suggested ERSRI issue a "broker of record" letter to permit him to procure bids through the State's network. Mr. Carvalho felt within 45-60 days ERSRI should hear from the insurance carriers as to what they will be able to provide.

Attorney Robinson also said that Mr. Carvalho was extremely knowledgeable and helpful and felt that after the 45-60 day period, ERSRI should be in a better position to have a more concrete discussion with respect to determining the level of risk the Board is comfortable with, and the amount of insurance that would be appropriate.

Director Karpinski next discussed a matter regarding certain retired firefighters from the Town of Johnston. He said he had received calls from Board Members inquiring about a Providence Journal article. Director Karpinski referred to a provision enacted in the 1999 session regarding §45-21-8(d), which provided that disability determinations of non-MERS members of the Johnston firefighters would be made by the Retirement Board, subject to the provisions of RIGL §45-21-19, relating to ordinary disability determinations, at the Town's expense.

Director Karpinski said shortly after the enactment of the law, ERSRI received a telephone call asking ERSRI to determine an accidental disability; based on a review of the law, ERSRI advised the Town of Johnston that it would be unable to proceed with an accidental disability determination given that the law only provided for review of

disability determinations pursuant to the ordinary disability statute. Director Karpinski said no further correspondence or inquiry has been received since.

Attorney Robinson told the Board that earlier last month the Johnston Firefighter's union and a number of retired firefighters filed a lawsuit against the Town and the Town's retirement board seeking to block them from holding hearings relating to the individual disability pensions awarded in prior years. The Johnston Firefighter's union named the State Retirement Board as an interested party. Attorney Robinson told the Board that the Judge declined to block the Town Board's hearings, and they went forward last week.

Attorney Robinson also stated that on Monday he received a letter from the Johnston City Solicitor asking the State Retirement Board to review the disability applications of four retired Johnston firefighters. The Town Solicitor also indicated that more hearings would take place at the end of November. Attorney Robinson said he would review the letter and keep the Board apprised with updates.

Lastly, the Director said the State's IT systems would be moving this weekend. If there are no issues, ERSRI will proceed with its move scheduled for December 2, 2011. He said test systems will be shut down on November 28th and moved. On November 30th, the production systems will be shut down and movers will transport the servers to the new location. He said ERSRI will be without their systems December 1st and 2nd. Phones will be transferred in groups as partial staff will be moved both days.

The Director said a newsletter will be sent to the membership with the new address and phone numbers and an ad will be placed in the Providence Journal along with notice on the website when logging in. Director Karpinski said ERSRI should be up on December 5, 2011 and the next Board meeting, December 14, 2011, will be at the new location.

V. Administrative Decisions

None this Month

VI. Approval of the Pensions as Presented by ERSRI

On a motion by Louis M. Prata and seconded by Linda C. Riendeau, it was unanimously

VOTED: To approve the October pensions as presented.

Given the pending legislation which includes eliminating COLA, Mr. Maguire queried about those retirees who have or are in the process of retiring and have chosen the social security retirement option (SRA Plus). He asked if there would be any allowances to permit those members to amend their option selection, which may have been made before the bill was introduced, given the potential suspension of COLA. After a discussion about the option, Mr. Maguire requested that those members who have not yet been approved for their pensions, and have selected the SRA Plus option, be contacted to give them an opportunity to select an alternative option if desired. Director Karpinski said that the counselors can and will make members aware of the matter at the time of their benefit presentations. Mr. Maguire felt strongly that ERSRI should reach out to the affected individuals to make them aware of the situation. Attorney

Dingley and Vice Chair Finelli agreed. Director Karpinski told the Board that ERSRI staff will immediately begin notifying affected members.

VII. Legal Counsel Report

Attorney Robinson apprised the Board of two matters involving former employees of the City of Woonsocket who have been charged with criminal conduct. In one instance a clerk in the Treasury Division was charged with misappropriating funds and using her computer in connection with the theft of City funds. In the other case, a municipal clerk who retired in August and is receiving a pension was charged with embezzling funds from the City. At present, neither of the members have pleaded guilty or nolo contendere to the crimes they have been charged with, and Attorney Robinson indicated that an action under the Public Employee Pension Revocation and Reduction Act (PEPRRA) may therefore be premature at this time. However, he also noted that his office will monitor the cases closely and apprise the Board with any updates as they develop.

Mr. Maguire asked about the status of the *Zambarano* pension revocation/reduction case. Attorney Robinson said the case was tried last month before Judge Gallo of the Rhode Island Superior Court, and that both Executive Director Karpinski and Mrs. Zambarano testified at the trial. He also stated that following the submission of final briefs, the Judge's clerk had reached out to the parties to obtain dates for further oral argument. Attorney Robinson said he will have an update for the Board after final arguments have taken place.

VIII. Committee Reports

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications for approval by the full Board as a result of its meeting on November 4, 2011:

| Name | Membership Group | Type | Action |
|----------------------|------------------|------------|---------|
| 1. Aric Gabrielson | Municipal | Accidental | Approve |
| 2. Scott Wright | Municipal | Accidental | Approve |
| 3. Pauline Richard | State | Ordinary | Approve |
| 4. Debra Daniel | Municipal | Ordinary | Approve |
| 5. Denise Monastesse | Teacher | Ordinary | Deny |
| 6. Pamela Azar | Teacher | Ordinary | Approve |

On a motion by Michael R. Boyce and seconded by Louis M. Prata, it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, November 4, 2011 on items 1, 2, 3, and 4.

On a motion by Michael R. Boyce and seconded by Louis M. Prata, it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, November 4, 2011 on items 5 and 6.

John P. Maguire recused himself from the vote on numbers 5 and 6.

Election Subcommittee:

Attorney Gary R. Alger, Chair of the Subcommittee, provided the Board with an update on the Retirement Board elections. He thanked the members of the committee and said they met before this morning's Board meeting to review the validation and certification of the candidates seeking elected positions on the Retirement Board.

He told the Board that the Director provided the Committee with official certification from his office that candidates had in fact secured 100 valid signatures of their respective membership group as required. The committee then voted and accepted the certification that the declared candidates were eligible for election to the Board as presented. He said there will be an election for the two (2) Retiree Representatives and the two (2) Active Teacher Representatives. There are 3 candidates for the Retiree Representatives namely:

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| Roger P. Boudreau | Retired Teacher |
| Michael R. Boyce | Retired Municipal Employee - City of East Providence |
| Lucille Mota-Costa | Retired Teacher |

Chairman Alger then said there are 4 candidates for the Active Teacher Representatives namely:

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| William B. Finelli | Regional Vice President NEARI |
| John P. Maguire | Treasurer RIFTHP/President North Providence Federation of Teachers |
| Candace McCall | Classical High School Teacher |
| Barry McPeake | North Kingstown Teacher |

Chairman Alger then apprised the Board that one candidate did not return the 100 signatures as required and thus has been notified of his disqualification. For the positions of Active State Employee Representative and Active Municipal Employee Representative, Chairman Alger said there will be no election, as required by Regulation No.5, Article 1, Section Four (4) which provides that in the event that only one municipal candidate qualified, he/she shall be deemed elected and no election shall be necessary for that group. Also, if only two active state employees qualify, they shall be deemed elected and no election shall be necessary. Consequently, Chairman Alger said since the current members in those positions were the only candidates to produce 100

validated signatures, they will be deemed elected and no election is necessary for those membership groups. They include Linda C. Riendeau and John J. Meehan as Active State Employee Representatives and Louis M. Prata as the Active Municipal Employee Representative.

There being no further questions, consistent with Section Five (5) of Regulation No. 5, Chairman Alger asked Director Karpinski to administer the lottery for the ballot order. At the conclusion of the lottery the following order was determined:

Retiree Representative:

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| Lucille Mota-Costa |
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| Roger P. Boudreau |
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| Michael R. Boyce |
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Active Teacher Representative:

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| Candace McCall |
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| Barry McPeake |
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| William B. Finelli |
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| John P. Maguire |
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On a motion by John P. Maguire and seconded by Roger P. Boudreau, it was unanimously

VOTED: To accept the report of the Election Subcommittee and the results of the lottery for ballot order.

IX. New Business

John P. Maguire asked Attorney Robinson to research two items and report his findings back to the Board at the December meeting namely, what are the roles and responsibilities of trustees of defined contribution plans pursuant to appropriate state and federal law and/or regulations and what is the personal liability of trustees of defined contribution pension plans.

Also, Roger P. Boudreau asked Attorney Robinson research what the legal status is of the SRA Plus documents signed by members at the time of retirement. Attorney Robinson said he would begin to examine the questions posed.

There being no other business to come before the Board, on a motion by Gary R. Alger and seconded by Louis M. Prata, the meeting adjourned at 9:57 a.m.

Respectfully submitted,

Frank J. Karpinski
Executive Director